

ATTACHMENT 2

NC STATE UNIVERSITY

February 13, 2004

TO: **NC State Students, Faculty and Staff**

FROM: **Marye Anne Fox, Chancellor**
James L. Oblinger, Provost and Executive Vice Chancellor
George Worsley, Vice Chancellor for Finance and Business

SUBJECT: **Liability for illegal file sharing**

Dear NC State students, faculty and staff,

This open letter is to alert students and employees of the personal risks involved with unauthorized file sharing of copyrighted materials. Copyright holders, such as the Recording Industry Association of America (RIAA), are more aggressively initiating legal actions against individuals engaged in illegal peer-to-peer (P2P) file sharing. Students, faculty and staff who participate in these activities should be aware that they risk criminal prosecution and civil litigation. Additionally, students risk suspension or expulsion from school, and faculty and staff risk being dismissed from their jobs.

The practice of trading music, movies, games and software over the Internet has become commonplace on many college campuses. Although P2P file sharing programs (such as KaZa, BitTorrent, Gnutella, iMesh, CuteMX, Scour and FreeNetfile) are not illegal, they can be used for illegal purposes. Downloading or sharing copyrighted materials without explicit permission from the copyright holder may be a violation of U.S. copyright law and punishable with prison time and fines.

Some people erroneously believe that illegal file sharing will not be noticed. The RIAA and other copyright holders use automated methods to identify infringements, and even small amounts of sharing can be detected. When copyright holders resort to legal actions, there is little the university will be able to do to protect those who infringe copyrights.

NC State University, in compliance with the Digital Millennium Copyright Act (DMCA), takes quick action when notified of alleged copyright infringements occurring from a computer connected to the campus network. Incidents are referred to appropriate campus officials, and steps are taken to prevent unauthorized downloading or distribution of copyrighted materials. The university may also take disciplinary action against the individual responsible for or participating in the infringement.

We also urge you to consider the information security risks associated with the use of P2P applications. Many of these programs are set up by default to share personal information. This can be a significant risk if you store confidential information on your computer system. Additionally, file sharing applications have been used to introduce viruses which can cause irretrievable loss of data. For these reasons, individual colleges or units with data requiring security may determine that individual users in those units may not use peer-to-peer file sharing applications.

In cooperation with sister University of North Carolina institutions and the national higher education community, many individuals at NC State work to educate the campus about copyright and file-sharing issues. We hope you will join these efforts. For more information, see www.ncsu.edu/copyright. For assistance with removing peer-to-peer file sharing applications or copyrighted infringing materials, contact your departmental computer support professionals or e-help@ncsu.edu.



Information Systems

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Position on Filesharing Settings

In response to increased prosecution efforts against individuals who use file sharing technologies to distribute unauthorized copies of copyrighted materials, the University's Committee on Information Technology and Learning Department have approved automated disabling of file sharing on Wake Forest computers.

This change will protect against unintentional file sharing that results from default settings in many file sharing applications. It does this by changing the file sharing setting to "off" each time an individual logs into the campus network with a Wake Forest computer. This will not prevent individuals from enabling file sharing; it simply requires that they make an intentional decision to do so.

All members of the Wake Forest community are obligated to comply with University computing guidelines and all applicable federal, state, and local regulations related to their use of technology. Sharing of copyrighted materials is strictly governed by U.S. copyright law, and the entertainment industry has aggressively and successfully prosecuted violators. Wake Forest faculty, staff, or students who violate the terms of copyright law are subject to prosecution and civil lawsuits as well as potential University penalties.

For further information concerning copyright, please visit the [Copyright Links](#) page and [Copyright Basics](#) page.



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Using Peer to Peer File Sharing Programs

Peer to Peer Examples: Kazaa, Morpheus, Bear Share

Many students think that what they do on the Internet is their own business, that their risk of being caught is remote and that even if caught, the most that will happen is a slap on the wrist. Recent events have proven this thinking to be wrong. Some students don't understand that sharing digital music, movies and software is illegal without permission, but it is, and ignorance of the law will not protect you from prosecution.

File Swappers Have Been Caught and Penalized:

On **August 21, 2003**, the U.S. Department of Justice accepted a guilty plea in the first federal criminal prosecution of someone for online music piracy. The defendant in the case, a 21-year-old man, faces a maximum prison sentence of five years and a maximum fine of \$250,000. He was a leader in the Apocalypse Crew, a group that obtained pre-release copies of CDs from music industry workers including DJs and magazine employees. The Crew would then release the music on to the internet which would filter down to file-sharing services such as Kazaa and Morpheus before going on general release to the public.

In **April 2003**, The Recording Industry Association of America (RIAA) sued four students for running services that searched computers connected to their college networks for MP3 song files. The students also shared copyrighted music from their own machines. The lawsuits marked the first time that the RIAA directly sued students, as opposed to companies, associated with peer-to-peer piracy. Each of the students agreed to pay thousands of dollars to settle the online music piracy charges out of court. The settlements will see each student making payments to the RIAA totaling between \$12,000 and \$17,000, split into annual installments between 2003 and 2006. The lawsuits as filed could have entailed damages (in theory) of up to \$100 million.

Students at the University of Arizona Have Been Caught:

From January through August of 2003, the University of Arizona received over 300 official notices of copyright infringement under the Digital Millennium Copyright Act. These notices allege illegal sharing of music, movies, and software. The majority of these complaints are against student owned computers located in dorm rooms. The notices come from software or entertainment companies that focus their Internet scans on university and college networks looking for specific games, songs or videos, usually the most currently popular. They focus on colleges and universities because the DMCA makes Internet service providers liable for contributory copyright violations if they do not remove infringing material when they have notice of it, and because college campuses are hotbeds of file sharing activity. So there is the answer for the many students and staff who ask, "I download lots of stuff on my home computer and I never got a violation, so why did I get one here?"

In order to alleviate its potential liability, the University of Arizona must respond to these notices expeditiously. When the University's designated DMCA agent receives a valid complaint it is forwarded to the Assistance Director of Residence Life when the infringement occurs from a residence hall, and to the appropriate person in campus departments when the infringement occurs there. These individuals are responsible for identifying the machines and individuals named in the complaint, and confirming a cease and desist action. Students who infringe will be referred to the Dean of Students Office for disciplinary action.

What the Law Says:

The distribution of copyrighted materials over the Internet for which the distributor (any server - including your computer) does not have permission can be a violation of federal criminal law, a law called the Digital Millennium Copyright Act of 1998 (DMCA). Most of the music, games or

videos downloaded through file-sharing programs like Morpheus or KaZaA lack permission of the copyright owner. And, those very programs that you use to download material, automatically open file-sharing services from your computer. So, without your knowing it explicitly, by downloading the program and the files your computer is programmed to share files back out into the international Internet community. You are therefore liable to be in violation of the DMCA, even if all you did was download a single song. Each criminal offense carries with it a minimum fine of \$30,000 and a potential jail sentence.

For the average student who is downloading and serving copyrighted files on the Internet without permission of the owner the odds that she or he will be identified, arrested and sent to federal prison or sued are probably quite small. The recreational downloading of copyrighted materials is not without consequences, however. It is a violation of both federal law and university policy. And it is a law enforced not only by federal investigators, but also by the owners of copyrighted materials. There is some smaller number of students who do intentionally engage in a high volume of activity on the University of Arizona network. They should know that they are at greater risk for federal prosecution of copyright violations.

What can you do about it? Simple -- don't download copyrighted material for which you do not have the owner's permission, or which doesn't represent a fair use of that material. If you have file-sharing programs on your computer, set the program such that it no longer serves materials out from your computer. There are many legitimate uses for peer-to-peer file sharing software, but make sure that you aren't incurring unintended, illegal activity by having this software on your computer.

It is a good idea to curtail serving files out for another reason as well. File serving consumes a lot of bandwidth. Network operators with responsibilities to maintain a safe and functional network will check and regulate for excessive volumes (they do not monitor content), and there are protocols for excessive use as well. Finally, if you don't like or disagree with the law, learn more about it and take a stand on it in the arena of national politics. With implications for free speech and academic inquiry, it might just become the political issue of your generation.

The above text was adapted with permission from Tracy Mitrano, Office of Information Technologiess, Cornell University.

Additional Information:

- * [How Not To Get Sued By The RIAA For File-Sharing](#)
Information from the Electronic Frontier Foundation.
- * [Disabling Peer to Peer File Sharing](#)
Information from the University of Chicago.
- * [DigitalConsumer.org](#)
- * [Motion Picture Association of America](#)
- * [Recording Industry Association of America](#)

Or Contact:

Dan Lee, Copyright Librarian
University of Arizona Library
1510 E. University
Tucson, Arizona 85721-0055
phone: (520) 621-6433
dmca@u.library.arizona.edu

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